

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 7

MICHAEL P. D’ALESSIO, et al.,

Case No.: 18-22552 (RDD)
(Jointly Administered)

Debtors.
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**ORDER: (A) APPROVING STIPULATION RESPECTING THE SALE OF THE REAL
PROPERTY LOCATED AT 3 SANDPIPER COURT, WESTHAMPTON, NEW YORK
11977 AND CARVE OUT FROM SECURED CLAIM OF PILOT 1704 LLC; (B)
SCHEDULING THE TIME, DATE AND PLACE OF THE AUCTION SALE OF THE
PROPERTY; (C) APPROVING TERMS AND CONDITIONS TO GOVERN THE
AUCTION SALE OF THE PROPERTY; (D) APPROVING THE FORM AND MANNER
OF NOTICE OF SALE; AND (E) SCHEDULING A HEARING TO CONFIRM THE
RESULTS OF THE SALE**

Upon that portion of the motion (“Sale Procedures Motion”)¹ of Marianne T. O’Toole, solely in her capacity as the Chapter 7 Trustee (“Trustee”) of the estate of 3 Sandpiper Court LLC (“3 Sandpiper Debtor”) for entry of an order pursuant to sections 105 and 363 of title 11 of the United States Code (“Bankruptcy Code”) and Rules 2002(a)(2) and 6004 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”): (a) approving the stipulation between the Trustee and Pilot 1704 LLC respecting the sale of the 3 Sandpiper Debtor’s interest in the real property located at 3 Sandpiper Court, Westhampton, New York 11977 (“3 Sandpiper Property”) and carve-out from Pilot 1704 LLC’s secured lien for the benefit of the 3 Sandpiper Debtor’s estate (“Stipulation”); (b) scheduling the time, date and place for the public auction of the 3 Sandpiper Property (“363 Sale”); (c) approving the terms and conditions of sale to govern the 363 Sale (“Terms and Conditions of Sale”); (d) approving the form of notice of the 363 Sale (“Notice of

¹ Unless otherwise defined herein, capitalized terms shall have the same meanings ascribed to them in the Sale Procedures Motion.

Sale”); and (e) scheduling a hearing to confirm the results of the 363 Sale; and the Sale Procedures Motion having been presented to the Court on October 26, 2018; and no objections having been filed to the Sale Procedures Motion; and after due deliberation and good cause appearing therefor, it is hereby **FOUND AND DETERMINED THAT**.²

A. This Court has jurisdiction over the Sale Procedures Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of the Sale Procedures Motion and the relief requested therein is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. Good and sufficient notice of the relief sought in the Sale Procedures Motion has been given and no further notice is required. A reasonable opportunity to object or be heard regarding the relief requested in the Sale Procedures Motion has been afforded to interested persons and entities, including: (i) the 3 Sandpiper Debtor; (ii) the United States Trustee (Southern District of New York); (iii) all parties in interest who have requested notice pursuant to Bankruptcy Rule 2002; (iv) Pilot 1704 LLC, through counsel; (v) all known creditors of the 3 Sandpiper Debtor; and (vi) known parties who have asserted a lien or interest in the 3 Sandpiper Property (collectively, “Notice Parties”).

C. The proposed Notice of Sale is good, appropriate, adequate, and sufficient, and service on the Notice Parties is reasonably calculated to provide all interested parties timely and proper notice of the 363 Sale and no other or further notice of the 363 Sale is required.

D. The Trustee has articulated good and sufficient reasons for this Court to grant the relief requested in the Sale Procedures Motion, including this Court’s approval of the Stipulation and approval of the form and manner of service of the Notice of Sale.

² Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact, when appropriate. See FED. R. BANKR. P. 7052.

E. The Trustee has articulated good and sufficient reasons for, and the best interests of the 3 Sandpiper Debtor's estate will be served by, this Court scheduling a Sale Approval Hearing to consider whether to grant the remainder of the relief requested in the Sale Procedures Motion, including confirmation of the results of the 363 Sale and the sale of the 3 Sandpiper Property free and clear of any and all interests in the 3 Sandpiper Property including, but not limited to, any and all liens, claims and encumbrances (collectively, "Interests").

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Sale Procedures Motion is approved to the extent provided in this Order.
2. All objections to entry of this Order or to the relief provided herein and requested in the Sale Procedures Motion that have not been withdrawn, waived, resolved, or settled are hereby denied and overruled in their entirety.
3. The Stipulation, a copy of which is annexed as Exhibit A, is hereby approved.
4. The Terms and Conditions of Sale, substantially in the form annexed as Exhibit B, are hereby approved.
5. The 363 Sale of the 3 Sandpiper Property will be conducted on **November 14, 2018 at 1:00 p.m.** at Maltz Auctions Inc. d/b/a Maltz Auctions, 39 Windsor Place, Central Islip, New York 11722.
6. Following the 363 Sale, the Trustee may submit an affirmation to confirm the results of the 363 Sale of the 3 Sandpiper Property.
7. The Trustee is authorized to take any and all actions necessary or appropriate to implement the 363 Sale.

SALE APPROVAL HEARING

8. The Sale Approval Hearing shall be held before this Court on **November 16, 2018**
at 10:00 a.m.

9. The Sale Approval Hearing may be adjourned by the Trustee by filing a notice with this Court and serving such notice on the Notice Parties.

NOTICE

10. The Notice of Sale, substantially in the form annexed to the Sale Procedures as Exhibit D, is hereby approved.

11. The Trustee shall cause notice of the 363 Sale to be published at least once in an appropriate publication pursuant to Bankruptcy Rule 2002(l).

12. The notice as set forth in the preceding paragraphs shall provide good and sufficient notice of the 363 Sale and the Sale Approval Hearing and no other or further notice of the 363 Sale or the Sale Approval Hearing shall be necessary or required.

ADDITIONAL PROVISIONS

13. The Trustee is authorized and empowered to take such steps, incur and pay such costs and expenses, and do such things as may be reasonably necessary to fulfill the requirements established by this Order.

14. This Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of this Order.

Dated: October __, 2018
White Plains, New York

Hon. Robert D. Drain
United States Bankruptcy Judge

EXHIBIT A
(Stipulation to be attached)

EXHIBIT B

(Terms and Conditions of Sale to be attached)